REPORT: THE 1979 SESSION

results of

MENTAL HEALTH STUDY COMMISSION

RECOMMENDATIONS

and

RELATED WORK

JUNE 1979

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RESULTS OF MENTAL HEALTH STUDY COMMISSION
RECOMMENDATIONS
AND
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JUNE 30, 1979

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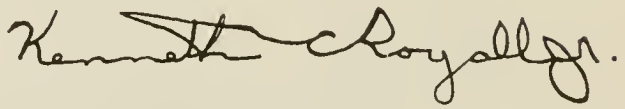
PREFACE

In addition to the members and ex-officio members of the Mental Health Study Commission, numerous individuals, groups and agency personnel have contributed many hours to the work summarized in this report. In appreciation for that effort, the report is intended to provide a reference document for those who have contributed and for those with a special interest in Mental Health, Mental Retardation and Substance Abuse Services.



Kenneth C. Royall, Jr.
Chairman

REPORT: THE 1979 SESSION

RESULTS OF THE MENTAL HEALTH STUDY COMMISSION RECOMMENDATIONS AND RELATED WORK

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INTRODUCTION

In February, 1979, the Mental Health Study Commission issued a Report to the Governor and the 1979 General Assembly. That report included fourteen legislative recommendations and several non-legislative recommendations.

The purpose of this document is to summarize and present copies of ratified legislation which was supported by the Mental Health Study Commission, to present summaries and copies of other relevant, ratified legislation and to present an update on action taken regarding the non-legislative recommendations. In addition, the report will present a brief outline of the issues which are before the Mental Health Study Commission for its consideration during the coming two years.

MENTAL HEALTH STUDY COMMISSION LEGISLATION

Of the fourteen legislative proposals, twelve were ratified, one was carried over and one was given an unfavorable report. Some of the bills received amendments but, in the opinion of staff and the bill sponsors, the amendments in effect helped to clarify or were corrective and in no way did they radically alter the intent of the Study Commission. The ratified bills included: Involuntary Commitment Revision (p. 17), Voluntary Admission of Minors (p. 30), Voluntary Admission of Inmates (p. 35), Repeal of G.S. 35-3 (p. 37), Private Hospital Involuntary Commitment (p. 38), M.R. Residential Care Subsidy (p. 42), Increase ADAP Subsidy

(p.44), Parental Responsibility for Disabled Minor Children (p.45), Parental Responsibility for Disabled Adult Children (p.45), Patient Information Exchange (p.47), Area Mental Health Program Amendments (p.49), and Mental Health Study Commission Extension (p.63).

The two bills which were not ratified are: Community Screening of Defendants which was given an unfavorable report by the Appropriations Committee and the bill to appropriate funds to implement the North Carolina Association for Retarded Citizens group home project which was carried over to the next short session. This was considered a more realistic time schedule for the completion of construction of these new group homes.

A simple paragraph summary of each of these pieces of legislation is presented on pages 4-7.

OTHER RELATED LEGISLATION

The General Assembly considered and ratified numerous pieces of legislation which, in some way, affect mental health, mental retardation and/or substance abuse. Selected here for summary and presentation are only those bills which affect the work of the Mental Health Study Commission —— bills which deal with services delivery and/or the mental health system.

Specifically, summaries of this legislation are presented on pages 8-11 . Copies of the ratified bills

can be found on the page indicated in parenthesis. Included are: Tax Refund for Multi-County Area Boards (p.65), Appointments to Single-County Area Boards (p.66), Alcohol and Drug Traffic Education Schools (p.67), Mental Health Study Commission to Study Needs of the Mentally Retarded (p.83), Mental Health Study Commission to Study Alcohol and Drug Abuse (p.86), and Criminal Code Commission to Study "Not Guilty by Reason of Insanity" Defense (p.89).

SUMMARY OF PROGRESS TOWARD NON-LEGISLATIVE RECOMMENDATIONS

In its February, 1979, Report, the Mental Health Study Commission made several non-legislative recommendations. On pages 12-15, summaries of the action taken and progress on these recommendations are presented. They include recommendations regarding: Inpatient Services and Funding, Study of the "Not Guilty by Reason of Insanity" Defense, The Advocacy Program, Reimbursement for Adult Developmental Activity Programs, Driving Under the Influence Legislation, Problems Related to Education of Children With Special Needs and County Share of Disabled Children and Adults Medicaid Costs.

FUTURE PLANS

While specific committee structure and time tables are yet to be determined, there are several issues which stand before the Mental Health Study Commission for its consideration over the next two years. These issues are summarized on pages 15-16.

BRIEF SUMMARY

S.B. 324
Ratified
Ch. 915
Effective
10/1/79

1. Revision Involuntary Commitment Law:

This bill removes the modifier "imminently" from the phrase "imminently dangerous to self or others" and defines the terms "dangerous to self" and "dangerous to others".

This bill also authorizes the Attorney General to employ four attorneys, one each for the Regional Psychiatric Hospitals to represent the State's interest and consult with petitioners regarding involuntary commitment procedures.

The bill clarifies the procedure in Involuntary Commitments wherein the judge can order inpatient and/or outpatient commitments. It provides for a continuance of up to seven days for the judge to determine findings of fact regarding the availability of outpatient treatment programs.

In addition, the bill clarifies the need for examination and signature of two physicians for an involuntary commitment of a person in residence at a psychiatric facility when the commitment is initiated.

It also extends the jurisdiction of the District Court to all hearings, rehearings and reviews, and supplemental hearings in Involuntary Commitments after an appeal is made.

It includes a provision which allows the minor or his parents when the minor reaches majority to request that the court records of an involuntary commitment be expunged.

The bill provides a shield for law enforcement officers or other governmental employees from criminal or civil liability when appropriate and reasonable measures are taken in the act of transporting a patient in an involuntary commitment.

Finally, this bill allows family or friends to transport a patient to the hospital and/or home in an involuntary commitment procedure when approved by the judge or magistrate assuming that there is no substantial danger.
(79/80 - $101,100; 80/81 - $135,100)
(Text Page 17).

S.B. 291
Ratified
Ch. 171
Effective
10/1/79

2. Voluntary Admission of Minors:

This bill clarifies the procedure required in the voluntary admission of a minor to a psychiatric facility. The judge is authorized to allow an admission of up to thirty days for the purpose of diagnosis and evaluation. The bill also defines "mental illness" in a minor and defines the term "treatment facility". (Text Page 30).

S.B. 292
Ratified
Ch. 547
Effective
7/1/79

3. Voluntary Admission Of Inmates:

This bill allows the voluntary admission of an inmate in the custody of the Department of Correction to a psychiatric hospital upon the approval of the Secretary of Correction and the Secretary of Human Resources.
(Text Page 35).

S.B. 305
Ratified
Ch. 152
Effective
10/1/79

4. Repeal of G.S. 35-3:

Prior to its repeal, G.S. 35-3 allowed the superintendant of a psychiatric hospital to appoint a guardian of a hospital resident without allowing for due process. The Limited Guardianship Law passed last session will suffice to cover the absence of this section.
(Text Page 37).

H.B. 443
Ratified
Ch. 164
Effective
10/1/79

5. Repeal Private Hospital Involuntary Commitment Law:

In essence, this bill will assure that those committed to private hospitals are assured the same constitutional rights as those committed to public hospitals.
(Text Page 38).

S.B. 634
Reported
Unfavorable
Committee On
Appropriations

6. Appropriations, Community Screening Of Defendants:

This bill would have allowed judges to refer defendants to Area Mental Health Programs for the purpose of screening for the need to evaluate the defendant's capacity to proceed to trial.

H.B. 418
Ratified
Ch. 1028
Effective
7/1/79

7. Appropriations; Mental Retardation Care Subsidy:

This appropriation will increase the monthly subsidy for mentally retarded and multi-handicapped children who reside in community residential centers.
(79/80 - $300,000; 80/81 - $300,000)
(Text Page 42).

H.B. 416
Carried Over
Comm. On
Appropriations

8. Appropriations; Mental Retardation Group Homes:

This appropriation would have provided funds for start up, partial operation and the purchase of day services for residents of the new group homes to be built by the North Carolina Association for Retarded Citizens and other private non-profit groups. The Association is currently behind schedule in its building program but will be ready no later than 80/81 fiscal year.

H.B. 417
Ratified
Ch. 1040
Effective
7/1/79

9. Appropriations; A.D.A.P. Subsidy:

The intent of this bill is to provide funds to the Division of Mental Health and Mental Retardation Services to increase the monthly subsidy for Adult Developmental Activity Programs for the 2,800 adult mentally retarded served in sheltered workshops and independent ADAP's.
(79/80 - $200,000; 80/81 - $200,000)
(Text Page 44).

H.B. 413
Included in
Main Appropri.
Bill
S.B. 124
Effective
Upon Ratification

10. Appropriations; Disabled Children:

This action creates a new class of Medicaid recipients, i.e., children who reside in long term care facilities (both public and private) in excess of 180 days. The bill includes appropriations to cover the cost for this policy change. (Costs subsumed in Division Medical Assistance Budget)
(Text Page 46).

H.B. 412
Included in
Main Appropri.
Bill
S.B. 124
Effective
Upon Ratification

11. Appropriations; Disabled Adults:

This action clarifies the financial responsibility of parents for their

disabled children when the children reach majority. The bill will clarify equal treatment of all disabled adults regardless of their place of residence for the purpose of determing medicaid eligibility. The bill includes an additional appropriation to cover additional Medicaid costs for this policy change.
(Costs subsumed in Division Medical Assistance Budget.)
(Text Page 46).

H.B. 415
Ratified
Ch. 147
Effective
7/1/79

12. Patient Information Exchange:

This bill authorizes the exchange of client treatment information without the permission of the client between treatment facilities when the client seeks treatment or is referred by one of the treatment facilities to the other treatment facility.
(Text Page 47).

H.B. 460
Ratified
Ch. 358
Effective
7/1/79

13. Area Mental Health Program Amendments:

This bill amends the Area Mental Health Program Act sponsored by the Study Commission last session in five ways: (1) includes Mental Retardation and Substance Abuse in the title "Area Mental Health, Mental Retardation and Substance Abuse Program", etc.; (2) Changes the word biannual to biennial in reference to required reports; (3) Clarifies the use of State funds in contracts with private non-profit agencies; (4) Clarifies allowable local match for State funds; (5) Allows limited pecuniary compensation of area board members.
(Text Page 49).

S.B. 288
Ratified
Ch. 215
Effective
7/1/79

14. Mental Health Study Commission Extension:

This bill extends the Mental Health Study Commission for another two year period. There are no changes to the membership structure or purpose of the Study Commission.
(See summary of HJR 893 on page 10).
(Text Page 63.)

BRIEF SUMMARY

Sec. 81 Included in Main Tax Relief Bill. S.B. 904 Effective 7/1/79

1. Tax Refund For Multi-County Area Boards.

Because single-county Area Mental Health, Mental Retardation and Substance Abuse Boards are legally construed to be agencies of County Government, they have been exempt from State sales tax. Multi-county Area Boards are granted the same exemption by Section 81 of the Main Tax Relief Bill. (Text Page 65).

H.B. 811 Ratified Chapter 455 Effective Upon Ratification

2. Appointments to Single County Area Boards.

This bill amends G.S. 122-35.40(b) to allow the county commissioners only in a single county Area Mental Health, Mental Retardation and Substance Abuse Authority, to appoint any resident of the county to serve on the Area Board in the place of a County Commissioner. (Text Page 66).

S.B. 691 Ratified Chapter 903 Effective 1/1/80

3. Alcohol and Drug Traffic Education Schools:

This bill was commonly referred to as the "D.U.I." Bill because it deals directly with persons convicted of a first offense Driving Under the Influence of Alcohol and Drugs. Specifically, the bill authorizes the judge in his issuance of a limited driving privilege to require the person convicted to successfully complete a program of instruction at an Alcohol and Drug Education Traffic School approved by the Department of Human Resources. The judge may waive such requirement but must indicate his reason in the record.

The Bill includes a definition and consequences of failure to successfully complete a program of instruction at an Alcohol and Drug Traffic Education School.

The Commission for Mental Health and Mental Retardation Services

is directed to establish standards and guidelines for the curriculum and operation of local Alcohol and Drug Traffic Education Schools operated by or under contract with Area Mental Health, Mental Retardation and Substance Abuse Authorities.

The bill establishes a fee of $100 for the course at the Alcohol and Drug Traffic Education School to be paid by the person to the clerk of court. The clerk is to transmit all fees to the Area Mental Health, Mental Retardation and Substance Abuse Authority which serves his county. The Area Authority is to remit 5% of the fees collected to the Department of Human Resources for the administration of the Schools statewide. Local fees collected (above the cost of operating the School) shall be placed in a non-reverting fund and may be used to support other alcohol and drug programs. The fees may not be used to match other state funds.

Willful failure to pay the fee is one ground for finding an unsuccessful completion of the course; except the court may determine the person unable to pay.

The bill also provides an option to judges in sentencing under a wreckless (under the influence) driving conviction to require the successful completion of instruction at an Alcohol and Drug Traffic Education School in lieu of imprisonment.

Finally, the bill makes other technical changes to procedures for convictions and issuance of limited driving privileges.
(Text Page 67).

H.J.R. 1379
Ratified
Resolution 40
Effective Upon
Ratification

4. Mental Health Study Commission to Study the Needs of the Mentally Retarded:

This joint resolution directs the Mental Health Study Commission to conduct a review and study of the following:

(a) state policies regarding the provision of services to the substantially mentally retarded citizens;

(b) overlaps and gaps in services as they relate to the service needs of the substantially mentally retarded citizens;

(c) the roles and responsibilities of different State agencies in meeting the needs of the substantially mentally retarded citizens;

(d) the roles and responsibilities of the family, the State and local government in providing services for the substantially mentally retarded citizens.

This study is to be conducted and a report filed with the Governor and the General Assembly not later than January 1, 1981.
(Text Page 83).

H.J.R. 893
Ratified
Resolution 20
Effective
Upon Ratification

5. Mental Health Study Commission to Study Alcohol and Drug Abuse:

This resolution directs the Mental Health Study Commission to make alcohol and drug abuse and the implementation of public drunkenness legislation a priority concern. In so doing, it directs the appointment of a special sub-committee to review several issues listed in the preamble and to examine policies and the public and private service delivery system in the area of alcohol and drug abuse. In addition, the Resolution recommends that the President of the Senate, the Speaker of the House and the Governor each have one additional appointment to the Mental Health Study Commission including a member of the Senate, a member of the House and one to represent the public at large.
(Text Page 86).

H.J.R. 1274
Ratified
Resolution 46
Effective Upon
Ratification

6. Criminal Code Commission to Study "Not Guilty By Reason of Insanity" Defense:

This bill is included in this review because it relates to one of the non-legislative recommendations made by the Mental Health Study Commission in its February, 1979, Report. Specifically, this bill directs the Criminal Code Commission to study the insanity

defense to determine if amendment or abolition of that defense is needed and to report no later than the first day of the 1981 Session of the General Assembly. This resolution gives responsibility to the Criminal Code Commission; whereas, the non-legislative recommendation had suggested a joint study with the Mental Health Study Commission. Therefore, involvement in this study of the Mental Health Study Commission will be upon request of the Criminal Code Commission. (Text Page 89).

MENTAL HEALTH STUDY COMMISSION
PROGRESS TOWARD NON-LEGISLATIVE RECOMMENDATIONS

BRIEF SUMMARY

In its February 1979 Report, the Mental Health Study Commission made several recommendations regarding general funding of Area Mental Health, Mental Retardation and Substance Abuse Programs, specifically funding for local inpatient programs, and about several other issues which the Study Commission had studied. Progress has been made toward meeting all objectives:

1. S.B. 124 (The Main Appropriations Bill) includes a provision which will require that "all funds designated as area mental health program funds shall be matched in accordance with the State/Local ratio established by the current area mental health matching formula." This, in essence, transfers the special inpatient grant-in-aid funds to an area match status.

2. In accordance with the Study Commission Recommendations, the Director of the Division of Mental Health, Mental Retardation and Substance Abuse Services assures that programs which received special inpatient grant-in-aid funds in 1978-79 will be able to retain those funds in 1979-80 assuming that they match the funds and that their annual plans are approved by the Division.

3. The Division of Mental Health, Mental Retardation and Substance Abuse Services is in the process of developing a policy to discourage the future development of "free standing" psychiatric inpatient hospitals as recommended.

4. As recommended by the Mental Health Study Commission, the 1979 General Assembly did not appropriate any new inpatient grant-in-aid funds for the 1979-81 biennium.

5. The Study Commission had requested the Division to make a recommendation re-

garding the distribution of new area match funds. The 2.5 million expansion area match funds appropriated will be distributed to all 41 Area Programs on a per capita basis in accordance with the distribution plan recommended by a special Task Force on Area Funding of the Division of Mental Health, Mental Retardation and Substance Abuse Services.

6. The same Task Force referenced in number 5 above is continuing to prepare a report for the Mental Health Study Commission on the Area Matching Formula and on a Trial "Funds Follow the Patient" Funding Model.

7. As noted earlier (See Page 10), the Criminal Code Commission has been given the responsibility by the General Assembly to study the "Not Guilty by Reason of Insanity" Defense. The Mental Health Study Commission will work with them if requested to do so.

8. Both recommendations of the Mental Health Study Commission regarding the Advocacy Program at the psychiatric hospitals have been implemented. The General Assembly did appropriate funds to continue the program in 1979-81 and advocates are now working in all four hospitals.

9. The Mental Health Study Commission had recommended that the reimbursement for Adult Developmental Activity Programs be raised, if necessary, with existing resources. Since H.B. 417 was ratified (See Page 6), this recommendation can be implemented with new resources.

10. The Mental Health Study Commission recommended that it review legislation regarding Alcohol and Drug Traffic Education Schools for those convicted of Driving Under the Influence if requested to do so by the Department of Human Resources. Such a request was not made by the Department. The legislation was introduced and ratified without the review.
(See Summary On Pages 8-9).
(Text Page 67).

11. Problems regarding the implementation of the Creech Bill and the education of children with special needs had been presented at Mental Health Study Commission public hearings. As recommended, the

testimony has been forwarded to the Commission for Children With Special Needs.

12. As recommended, the General Assembly ratified legislation which will allow the State to assume the county share of the cost of care in Intermediate Care-Mental Retardation Facilities at the State facilities for disabled children and adults.

In summary, all non-legislative proposals have been implemented in total or are in the process of implementation.

FUTURE PLANS

The Mental Health Study Commission has been extended until June 30, 1981. Current members are to continue at the pleasure of those authorized to make the original appointment. As noted earlier (See Page 10), Resolution 20 recommends the appointment of three additional members. In addition to these eighteen members, the members of the House Mental Health Committee and the members of the Senate Human Resources serve in an ex-officio capacity on the Study Commission.

Assuming that the new appointments will be made over the summer, it is likely that the first full Study Commission meeting will be held in the Fall of 1979. In the meantime, staff will be working with staff from various State agencies gathering data and information and preparing it for Study Commission review.

Two issues before the Study Commission have been directed by Resolutions ratified by the 1979 General Assembly. Two other issues have been carried over as follow-up to 1979 activities. A final specific issue will be reviewed as a result of a request of the Appropriations Committee.

These issues are listed below:

1. Study Alcohol and Drug Abuse and Implementation of Decriminalization of Public Drunkenness.

2. Study Service Needs of the Mentally Retarded.

3. Follow-up review of the Implementation of Revision in the Involuntary Commitment Law.

4. Follow-up on Division Task Force on Area Funding Recommendations regarding Area Match Formula and "Funds Follow the Patient" Trial.

5. The Appropriations Committee has requested that the Mental Health Study Commission review and make recommendations on the Commissions, Councils and Committees which relate to the Division of Mental Health, Mental Retardation and Substance Abuse Services.

Study Commission Members will have an opportunity to raise other concerns for Study Commission consideration if time permits. The exact committee structure, work plans and time tables will be developed over the next couple of months.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 915

SENATE BILL 324

AN ACT TO AMEND ARTICLE 5A OF CHAPTER 122 TO CHANGE AND CLARIFY THE "DANGEROUSNESS" STANDARD FOR INVOLUNTARILY COMMITTING A PERSON TO A MENTAL HEALTH FACILITY AND TO MAKE OTHER CHANGES TO THE INVOLUNTARY COMMITMENT LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-58.2(1) is hereby amended by rewriting that subsection to read as follows:

"(1) The phrase 'dangerous to himself or others' when used in this Article is defined as follows:

a. 'Dangerous to himself' shall mean that within the recent past:

1. The person has acted in such manner as to evidence:

I. that he would be unable without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and

II. that there is a reasonable probability of serious physical debilitation to him within the near future unless adequate treatment is

afforded pursuant to this Article. A showing of behavior that is grossly irrational or of actions which the person is unable to control or of behavior that is grossly inappropriate to the situation or other evidence of severely impaired insight and judgment shall create a prima facie inference that the person is unable to care for himself; or

2. The person has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is afforded under this Article; or

3. The person has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is afforded under this Article.

b. 'Dangerous to others' shall mean that within the recent past, the person has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another or has acted in such a manner as to create a substantial risk of serious bodily harm to another and that there is a reasonable probability that such conduct will be repeated."

Sec. 2. G.S. 122-58.1 is hereby amended by striking the word "imminently" immediately following the word "and" and immediately preceding the word "dangerous" on line 3 of that section.

Sec. 3. G.S. 122-58.3 is hereby amended by striking the

word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 2 and 3 of that section. G.S. §22-58.3 is further amended by striking the word "imminently" immediately following the word "and" and immediately preceding the word "dangerous" on line §2 of that section. G.S. §22-58.3 is further amended by striking the word "imminently" immediately following the word "is" on line §3 of that section.

Sec. 4. G.S. §22-58.4 is hereby amended by striking the word "imminently" immediately following the word "not" and immediately preceding the word "dangerous" on line 2§ of that section. G.S. §22-58.4 is further amended by striking the word "imminently" immediately preceding the word "dangerous" on line 23 of that section. G.S. §22-58.4 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 25 and 27 of that section.

Sec. 5. G.S. §22-58.5 is hereby amended by striking the word "imminently" immediately preceding the word "dangerous" on line 3 of that section. G.S. §22-58.5 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on line 4 of that section.

Sec. 6. G.S. §22-58.6 is hereby amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 5 and 6 of that section. G.S. §22-58.6 is further amended by striking the

word "imminently" immediately following the word "not" and immediately preceding the word "dangerous" on line 9 of that section.

Sec. 7. G.S. §22-58.7 is hereby amended by striking the word "imminently" immediately following the word "and" and immediately preceding the word "dangerous" on line 43 of that section. G.S. §22-58.7 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on line 44 of that section.

Sec. 8. G.S. §22-58.8 is hereby amended by striking the word "imminently" immediately following the word "not" and immediately preceding the word "dangerous" on line 2 of that section. G.S. §22-58.8 is further amended by striking the word "imminently" immediately following the word "be" and immediately preceding the word "dangerous" on line 4 of that section. G.S. §22-58.8 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on lines 7 and 9.

Sec. 9. G.S. §22-58.11 is hereby amended by striking the word "imminently" immediately following the word "and" and immediately preceding the word "dangerous" on line 21 of that section. G.S. §22-58.11 is further amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on line 23 of that section.

Sec. 10. G.S. §22-58.19 is hereby amended by striking the word "imminently" immediately following the word "is" and immediately preceding the word "dangerous" on line 2 of that

section.

Sec. 11. Wherever the phrase "imminently dangerous to himself or others" or the phrase "imminently dangerous to others" or phrases of like import appear in the General Statutes in connection with the involuntary commitment standard, then those phrases are hereby amended by striking the modifier "imminently".

Sec. 12. Article 5A of Chapter 122 of the General Statutes is hereby amended by adding a new section to be numbered G.S. 122-58.24 and to read as follows:

"§ 122-58.24. Representation of State's interest by Attorney General.--The Attorney General is hereby authorized to employ four attorneys, one to be assigned by him full time to each of the State's four regional psychiatric facilities to represent the State's interest at commitment hearings, rehearings, and supplemental hearings held at the hospitals under Articles 4 and 5A of Chapter 122 of the General Statutes of North Carolina, and to provide liaison and consultation services concerning these matters. Such attorney shall be subject to all the provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform additional duties as may be assigned to him by the Attorney General."

Sec. 13. G.S. 122-58.7(b), as the same appears in the 1977 Cumulative Supplement to Volume 3B of the North Carolina General Statutes, is hereby rewritten to read as follows:

"(b) The attorney who is a member of the staff of the Attorney General assigned to one of the State's four regional psychiatric facilities shall represent the State's interest at commitment

hearings, rehearings, and supplemental hearings held at the hospital to which he is assigned under Articles 4 and 5A of Chapter 122 of the General Statutes of North Carolina. Each of these attorneys shall also provide the liaison and consultation services necessary for these matters."

Sec. 14. Wherever the phrases "special advocate," "special advocate for the petitioner," or words of similar import appear in the General Statutes, then those phrases are hereby amended by deleting them and substituting the phrase "Attorney General representing the State's interest" in their place.

Sec. 15. G.S. 122-58.8(b) is hereby rewritten to read as follows:

"(b) If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate, and is dangerous to himself or others, or is mentally retarded, and because of an accompanying behavior disorder, is dangerous to others, it may order treatment, inpatient or outpatient, or a combination of both for a period not in excess of 90 days, at a mental health facility, public or private, designated or licensed by the Department of Human Resources. The court shall make findings of facts as to the availability and appropriateness of available outpatient treatment before ordering outpatient treatment. If the court has sufficient evidence to order commitment, but lacks sufficient evidence to determine if the commitment should be to an inpatient or outpatient facility, or a combination of both, the court may continue the case for disposition for not more than seven days for the production of

evidence to help in determining such disposition. Such continuance may be granted on motion of special counsel, Attorney General representing the State's interest, or on the court's own motion. Treatment at a private facility shall be at the expense of the respondent to the extent that such charges are not disposed of by contract between the area mental health authority and the private facility. If the court orders outpatient treatment a copy of the court order will be sent to the outpatient treatment facility to which the respondent was committed."

Sec. 16. G.S. 122-58.8(c) is hereby rewritten to read as follows:

"(c) If the court orders outpatient treatment, and the respondent fails to adhere to the prescribed outpatient treatment program, the director of the mental health center or his designee shall promptly notify the Attorney General representing the State's interest. The Attorney General representing the State's interest then shall notify the clerk of superior court of the county in which the respondent was committed for outpatient treatment and the clerk of superior court in the county where the inpatient mental health facility is located. Upon receipt of written or oral notice from the Attorney General representing the State's interest, the clerk of the county in which the respondent was committed for outpatient treatment shall issue a custody order, authorizing a law enforcement officer to take the respondent into custody and transport him to the appropriate mental health facility. Before the respondent is transported to

a private mental health facility, the director of the facility must agree to the admission.

When the respondent is returned to the appropriate mental health facility, the clerk of superior court in that county shall calendar a supplemental hearing to be held within 10 days of the time the respondent was taken into custody.

At the supplemental hearing the court must find by clear, cogent, and convincing evidence: (1) that the respondent had been given a copy of his prescribed outpatient treatment plan and the plan had been explained to the respondent; (2) that the respondent had not adhered to the prescribed outpatient treatment program; and (3) that the respondent meets the criteria for commitment as set out above in subsection (b). Upon such findings, the court may order inpatient treatment in a designated or licensed facility for a period of not more than 90 days running from the date of the order."

Sec. 17. G.S. 122-58.11(d) and G.S. 122-58.11(e) are hereby rewritten to read as follows:

"(d) If the court finds that the respondent is not in need of continued hospitalization or outpatient care, it shall unconditionally discharge him. A copy of the discharge order shall be furnished by the clerk of superior court of the county of original commitment to the facility from which the respondent is being discharged. If the court finds by clear, cogent, and convincing evidence that the respondent is mentally ill or inebriate, and dangerous to himself or others, or is mentally retarded, and because of an accompanying behavior disorder, is

dangerous to others, and in need of continued hospitalization, or, in the alternative, in need of outpatient care, or a combination of both, it may order hospitalization (or outpatient care, as the case may be) for an additional period not in excess of 180 days. If outpatient commitment is ordered and the respondent fails to adhere to the prescribed treatment program, a supplemental hearing may be held as in G.S. 122-58.8(c) above.

(e) Fifteen days before the end of the second commitment period, and annually thereafter, the chief of medical services of the facility shall review and evaluate the condition of each respondent, and if he determines that a respondent is in continued need of hospitalization or, in the alternative, in need of outpatient treatment, or a combination of both, he shall so notify the respondent, his counsel, and the clerk of superior court of the county in which the facility is located. Unless the respondent through his counsel files with the clerk a written waiver of his right to a rehearing, the clerk, on order of a district court judge of the district in which the facility is located, shall calendar a rehearing for not later than the end of the current commitment period. The procedures and standards for the rehearing are the same as for the first rehearing. Any recommitment ordered shall be for only such period of time as continued treatment is deemed necessary by the chief of medical services of the treatment facility, but in no event longer than one year."

Sec. 18. G.S. 122-58.3(d) is hereby rewritten to read as follows:

"(d) Any affiant who is a qualified physician may execute the oath to the affidavit before any official authorized to administer oaths. He is not required to appear before the clerk or magistrate for this purpose. If a physician executes an affidavit for commitment of a respondent already hospitalized or presented for hospitalization at a mental health facility described in G.S. §22-58.4(c), a second qualified physician, not treating the patient, shall be required to perform the examination required by G.S. §22-58.6."

Sec. 19. G.S. §22-58.9 is hereby rewritten to read as follows:

"§ §22-58.9. Appeal.--Judgment of the district court is final. Appeal may be had to the Court of Appeals, on the record as in civil cases. Appeal does not stay the commitment, unless so ordered by the Court of Appeals. The Attorney General shall represent the State's interest on appeal. The district court retains limited jurisdiction for the purpose of hearing all reviews, rehearings, or supplemental hearings allowed or required under this Article."

Sec. 20. Article 5A of Chapter §22 of the General Statutes is hereby amended by adding two new sections at the end of said Article to be numbered as G.S. §22-58.25 and G.S. §22-58.26, and to read as follows:

"§ §22-58.25. Confidentiality of court record of minors committed involuntarily.--(a) The court records of a minor made in all proceedings pursuant to this Article are hereby declared to be confidential and shall not be open to the general public

for inspection except when such disclosure is provided for in G.S. §22-58.26.

(b) It shall be a misdemeanor for any person to disclose the confidential court records of subsection (a) of this section to members of the general public.

(c) The court records described in subsection (a) of this section shall, upon the request of the parent, guardian, or person committed involuntarily, be expunged from the files of the court after the person committed involuntarily has reached adulthood and has been released.

"§ §22-58.26. Exception to confidentiality rule; procedure.--Any person seeking information contained in the court files or the court records of the proceedings involving minors made pursuant to an action under this Article may file a written motion in the cause setting out why the information is needed. A district court judge may issue an order to disclose the information sought if he finds such order is appropriate under the circumstances and if he finds that it is in the best interest of the minor or of the public to have such information disclosed."

Sec. 2§. G.S. §22-58.§4 is hereby amended by adding a new subsection to read as follows:

"(c) In providing the transportation required by this section, the law enforcement officer or other governmental employee may use reasonable force to restrain the respondent if it appears necessary to protect himself, the respondent, or others. No law enforcement officer or other governmental employee may be held

criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of this Article."

Sec. 22. G.S. 122-58.14 is hereby amended by adding a new subsection (d) to read as follows:

"(d) Notwithstanding the provisions of subsection (a) of this section, a clerk, a magistrate, or a district court judge where applicable may authorize the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. Such authorization shall only be granted in cases where the danger to the public, the family or friends of the respondent, or the respondent himself is not substantial. The family or immediate friends of the respondent shall bear the costs of providing such transportation."

Sec. 23. There is appropriated to the Department of Justice from the General Fund the sum of one hundred one thousand one hundred dollars ($101,100) for fiscal year 1979-1980 and the sum of one hundred thirty-five thousand one hundred dollars ($135,100) for fiscal year 1980-1981, which funds are to be used to employ such four attorneys and four secretaries, as full-time employees of the Department of Justice, to represent the State's interests in involuntary commitment proceedings at State hospitals under Chapter 122 and to administratively and logistically support them. It is contemplated that adequate, appropriate office space, utilities and telephones for such effective operation will be supplied by the respective regional

psychiatric hospital where each attorney is located.

Sec. 24. This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 171

SENATE BILL 291

AN ACT TO AMEND ARTICLES 3 AND 4 OF CHAPTER 122 TO CLARIFY THE PROCEDURES FOR THE VOLUNTARY ADMISSION OF MINORS TO MENTAL HEALTH FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-56.7 is hereby rewritten to read as follows:

"§ 122-56.7. Judicial determination.--(a) A hearing shall be held in district court in the county in which the treatment facility is located within 10 days of the day a minor or a person adjudicated non compos mentis is admitted to a treatment facility pursuant to G.S. 122-56.5. No petition shall be necessary; the written application for voluntary admission shall serve as the initiating document for the hearing.

(b) The court shall determine whether such person is mentally ill or an inebriate and is in need of further treatment at the treatment facility. Further treatment at the treatment facility should be undertaken only when lesser measures will be insufficient. If the court finds by clear, cogent, and convincing evidence, that these requirements have been met, the court shall concur with the voluntary admission of the minor or person adjudicated non compos mentis. If the court finds that these requirements have not been met, it shall order that the person be released. A finding of dangerousness to self or others

is not necessary to support the determination that further treatment should be undertaken.

(c) Mental illness in a minor shall have the meaning provided in G.S. 122-36(d)(2). Mental illness for an adult adjudicated non compos mentis shall have the meaning provided in G.S. 122-36(d)(1). The word 'inebriate' shall have the meaning provided in G.S. 122-36(c).

(d) When, in the case of a minor, it appears that an extended period of inpatient diagnostic evaluation is necessary before a recommendation can be made to the court, the chief clinical officer or his designee may request hospitalization not to exceed 30 days for diagnosis and evaluation. The following procedures shall apply:

(1) At least 48 hours in advance of the regularly calendared hearing provided in subsection (a) above, the chief clinical officer or his designee shall give written notice to the clerk of superior court, the respondent, the parent or parents, guardian, or person standing in loco parentis, and the attorneys for all parties, that diagnosis and evaluation of the minor cannot be completed prior to the calendared hearing, and that he will request that the court authorize a period of hospitalization not to exceed 30 days for the purpose of diagnosing and evaluating the minor.

(2) The court will determine whether there exists reasonable grounds to believe: (1) that the minor

is probably mentally ill or an inebriate and; (2) that the minor may, upon diagnosis and evaluation, be found to meet the criteria for admission as set out in (b) above; and, (3) that additional time is required to complete the diagnosis and evaluation.

(3) If the court finds that the criteria set out in subdivision (d)(2) above have been met, it shall authorize a period of hospitalization for diagnosis and evaluation, not to exceed 30 days, and establish a new date for the hearing provided in subsection (a) above, to occur by the end of the specified period. During this period, medical, psychiatric, psychological, educational, and social evaluation shall be undertaken and reasonable and appropriate medication and treatment administered, consistent with Part 3 of Article 3 of this Chapter, and accepted medical standards.

(4) If the court does not make findings of fact as set out in subdivision (d) (2) above, the minor shall be ordered released.

(e) Unless otherwise provided in §22-56.7, the hearings specified in (b) and (d) above, and all subsequent proceedings shall be governed by the involuntary commitment procedures of Article 5A of Chapter §22 of the General Statutes. In a case involving an indigent respondent located at a regional psychiatric facility for the care and treatment of the mentally ill and inebriate, special counsel authorized by G.S. §22-58.§2

shall act as counsel.

(f) After admission, only the court or the treatment facility may release the minor or person adjudicated non compos mentis at any time when either determines that such person does not need further hospitalization.

(g) In addition to the notice of hearings and rehearings to the respondent and his counsel required under G.S. §22-58.5 and G.S. §22-55(a) respectively, notice shall be given by the clerk to the person who signed the application for voluntary admission, or his successor, in accordance with the provisions of G.S. §22-58.20. The person who signed the application for voluntary admission, or his successor, may also file a written waiver of his right to receive notice with the clerk of court."

Sec. 2. G.S. §22-36(d) is hereby rewritten to read as follows:

"(d) The words 'mental illness' shall mean: (1) when applied to an adult, an illness which so lessens the capacity of the person to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance or control. The words 'mentally ill' shall mean an adult person with a mental illness; or (2) when applied to a minor shall mean a mental condition, other than mental retardation alone, which so lessens or impairs the youth's capacity either to develop or exercise age appropriate or age adequate self-control, judgment, or initiative in the conduct of his activities and social relationships as to make it necessary

or advisable for him to be under treatment, care, supervision, guidance or control."

Sec. 3. G.S. 122-56.2(b) is hereby amended by rewriting that subsection to read as follows:

"The words 'treatment facility,' as used in this Article, mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or inebriety, any area mental health facility operated pursuant to Article 2F of this Chapter, and any private hospital for the mentally disordered as described in G.S. 122-72 and G.S. 122-72.1."

Sec. 4. This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 21st day of March, 1979.

JAMES C. GREEN

James C. Green
President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 547

SENATE BILL 292

AN ACT TO AMEND ARTICLE 4 OF CHAPTER 122 (VOLUNTARY ADMISSION) OF THE GENERAL STATUTES TO ALLOW THE VOLUNTARY ADMISSION OF AN INMATE IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION TO REGIONAL MENTAL HEALTH FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 122 of the General Statutes is hereby amended by adding a new section at the end of that Article to be numbered G.S. 122-56.10 and to read as follows:

"§ 122-56.10. Voluntary admission of inmates from the Department of Correction to Regional Mental Health Facilities.--

(a) Inmates in the custody of the Department of Correction may seek voluntary admission to regional psychiatric facilities for mental illness or inebriety. Such admission may be accomplished only when the Secretary of Human Resources or his designee and the Secretary of Correction or his designee jointly agree to the inmate's request.

(b) The provisions of G.S. 122-56.3 shall apply to the voluntary admission of inmates, however, upon discharge of a voluntarily admitted inmate, the Department of Correction shall take custody of such inmate if the inmate's term of incarceration has not been completed.

(c) The Department of Correction is responsible for the security and costs of transporting inmates to and from regional psychiatric facilities for the purpose of accomplishing a voluntary admission."

Sec. 2. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 11th day of May, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 152

SENATE BILL 305

AN ACT TO REPEAL G.S. 35-3 OF THE GENERAL STATUTES WHICH PROVIDES FOR THE APPOINTMENT OF A GUARDIAN BASED ON THE CERTIFICATE OF THE SUPERINTENDENT OF A STATE HOSPITAL FOR THE MENTALLY ILL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35-3 is hereby repealed.

Sec. 2. This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of March, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 164

HOUSE BILL 443

AN ACT TO REPEAL AND AMEND SECTIONS OF ARTICLE 10 OF CHAPTER 122 AFFECTING THE INVOLUNTARY COMMITMENT OF INDIVIDUALS TO PRIVATE HOSPITALS FOR THE MENTALLY DISORDERED.

Whereas, the 1973 Session of the North Carolina General Assembly determined that it is the policy of the State that no person shall be committed to a mental health facility unless he is mentally ill or an inebriate and imminently dangerous to himself or others, or unless he is mentally retarded and, because of accompanying behavior disorder, is imminently dangerous to others; and

Whereas, the General Assembly has determined that such commitment will be accomplished under conditions that protect the dignity and constitutional rights of the person; and

Whereas, since 1903 a section of Article 10 of Chapter 122 (said section not being a part of the public involuntary commitment law passed by the 1973 Session of the General Assembly) has allowed for the involuntary commitment of an individual alleged to be mentally ill or inebriate to a privately operated hospital on the affidavit of a physician and any other person made before a notary public or a clerk of court; and

Whereas, after the filing and approval of said affidavit by the clerk of court, such alleged mentally ill or inebriate person may be confined indefinitely at a privately run hospital

without periodic judicial review, without an initial due process hearing, or without any other constitutional or statutory protections provided by law; and

Whereas, the public involuntary commitment law passed by the 1973 Session of the General Assembly provides these constitutional and statutory safeguards that are absent in Article 10; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-75, G.S. 122-77, G.S. 122-78, G.S. 122-79, G.S. 122-80, and G.S. 122-82.2 are hereby repealed.

Sec. 2. Article 10 of Chapter 122 of the General Statutes entitled "Private Hospitals for the Mentally Disordered" is hereby amended by adding a new section immediately following G.S. 122-81.1 and immediately preceding G.S. 122-82 to be numbered G.S. 122-81.2 to read as follows:

"§ 122-81.2. Involuntary commitment to a private hospital.--(a) All involuntary commitments to private hospitals or private facilities licensed by the Department of Human Resources under this Article shall be accomplished in accordance with the provisions of Article 5A of this Chapter.

(b) As provided in G.S. 122-58.8(b), the district court judge may order treatment of an individual at a private hospital, home, or school for the cure, treatment, or rehabilitation of the mentally ill, mentally retarded, or inebriate persons licensed in accordance with G.S. 122-72.

(c) Whenever any interested person feels that it would be in the best interest of a committed individual that such committed

individual be transferred to another mental health facility, that interested person may petition the district court for an order directing such transfer. This petition shall be filed in the district court which issued the last commitment order in the case. The district court judge may in his discretion issue a transfer order if such order is in the best interest of the committed person and the transfer conforms to the State policy of the least restrictive mode of treatment provided in G.S. §22-58.1. Provided, however, that this subsection shall not apply to transfers between two regional Mental Health Facilities."

Sec. 3. G.S. §22-58.2 is hereby amended by adding new subsections (5), (6), and (7), to read as follows:

"(5) 'Community Mental Health Center' or 'Community Mental Health Facility' means any mental health center or clinic operated by or under the supervision of an area mental health board or area mental health authority pursuant to Article 2F of this Chapter.

(6) 'Regional Mental Health Facility' and 'Regional Psychiatric Facility' mean any one of the following: Broughton Hospital in Morganton, John Umstead Hospital at Butner, Dorothea Dix Hospital in Raleigh, or Cherry Hospital in Goldsboro.

(7) 'Mental Health Facility' and 'Treatment Facility' mean any community mental health center, any regional mental health facility, any private mental health facility licensed or designated by the Department of Human Resources pursuant to Article 10 of this Chapter, or the psychiatric services of Memorial Hospital of The University of North Carolina at Chapel

Hill."

Sec. 4. G.S. 122-36(g) is hereby amended by rewriting that subsection to read as follows:

"(g) 'Treatment Facility' shall mean any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or mental retardation, any center or facility operated by the State of North Carolina for the care, treatment, or rehabilitation of inebriates, any community mental health clinic or center operated pursuant to Article 2F of this Chapter, and any private hospital as specified in G.S. 122-72 and G.S. 122-72.1."

Sec. 5. This act shall become effective October 1, 1979.

In the General Assembly read three times and ratified, this the 20th day of March, 1979.

JAMES C. GREEN

James C. Green
President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.
Speaker of the House of Representatives

House Bill 443

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 1028

HOUSE BILL 418

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF MENTAL HEALTH AND MENTAL RETARDATION SERVICES, DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF RAISING THE MONTHLY SUBSIDY FOR RESIDENTIAL CARE FOR MENTALLY RETARDED AND MULTI-HANDICAPPED CHILDREN.

Whereas, the costs for providing residential services to mentally retarded and multi-handicapped children have continued to rise; and

Whereas, the private nonprofit centers who provide these services at the community level have lost substantial funds from other sources; and

Whereas, the provision of these services at the community level provide relief for the State institutions wherein this care would otherwise need to be provided; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Division of Mental Health and Mental Retardation Services, Department of Human Resources for fiscal year 1979-80, the sum of three hundred thousand dollars ($300,000) and for fiscal year 1980-81, the sum of three hundred thousand dollars ($300,000) to help maintain current services in Specialized Community Residential Centers by raising the monthly subsidy to six hundred seventy-five dollars ($675.00) in 1979-1981, for 140 children. Provided, however, such appropriations shall not be used to fund

salary increases of such Residential Centers beyond the existing increase in minimum wage levels or guidelines of increase in salaries adopted by the federal government; provided further, the Residential Centers may set such salary increases at the higher of the two above mentioned salary limitations.

Sec. 2. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 1040

HOUSE BILL 417

AN ACT TO APPROPRIATE FUNDS TO THE DIVISION OF MENTAL HEALTH AND MENTAL RETARDATION SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES FOR THE PURPOSE OF INCREASING ADULT DEVELOPMENTAL ACTIVITY PROGRAMS' MONTHLY SUBSIDY.

Whereas, approximately 2,800 clients are currently supported, in part, by State funds in Adult Developmental Activity Programs; and

Whereas, the subsidy for these programs has remained the same since 1978 and costs continue to rise; and

Whereas, these programs are necessary for the development of individual abilities and the maintenance of those receiving services in the community; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Mental Health and Mental Retardation Services, Department of Human Resources for fiscal year 1979-80 the sum of two hundred thousand dollars ($200,000) and for fiscal year 1980-81 the sum of two hundred thousand dollars ($200,000) to provide for an increase in the monthly subsidy to one hundred forty-six dollars ($146.00) per month for Adult Developmental Activities Programs for all clients who receive such subsidy.

Sec. 2. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

DISABLED CHILDREN

Sec. 25. G.S. 143-127.1(a) is amended by inserting between the words "are" and "long-term" the following: "non-Medicaid,".

Sec. 26. G.S. 143-127.1(b) is amended by deleting the word "long-term".

Sec. 27. Upon receipt by the Department of Human Resources of official notification from the Secretary of Health, Education and Welfare that institutionalized, minor, disabled children may be considered as financially independent for purposes of Medicaid eligibility, G.S. 143-127.1 is amended by adding a new subsection:

"(d) Notwithstanding any other provisions of the law, the income and financial resources of the natural or adoptive parents of persons under the age of 21 who since July 1, 1978, had spent a total of at least 180 days as long-term patients in public or private certified intermediate care or skilled nursing facilities, shall not be taken into account in the determination of whether that child is eligible for medical assistance under Article 2, Part 5 of Chapter 108 of the General Statutes and Title XIX of the Social Security Act."

-----REDUCE REQUIREMENT OF PARENTAL SUPPORT FOR DISABLED ADULTS

Sec. 28. G.S. 14-322.2 is repealed.

Sec. 29. G.S. 50-13.8 is amended by deleting the words "and support" following the word "custody", by deleting all of the words after the word "self-support", and by deleting the comma after the word "self-support" and substituting therefore a period.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 147

HOUSE BILL 415

AN ACT PROVIDING FOR EXCHANGE OF PATIENT INFORMATION BETWEEN TREATMENT FACILITIES.

Whereas, it is in the best interest of the mentally impaired client that those who provide treatment are knowledgeable of the past treatment of the client; and

Whereas, clients in need of mental health treatment are often treated in multiple facilities during the course of their illness; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-8.1 as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by adding subsection (c) to read as follows:

"(c) Further, notwithstanding the provisions of subsection (a), any treatment facility as defined by G.S. 122-36(g) or by G.S. 122-56.2(b) shall furnish information in its possession regarding any present or former resident or patient of that treatment facility to any other such treatment facility upon request from the latter treatment facility if the resident or patient is presently seeking treatment from the requesting treatment facility or has been involuntarily committed to the requesting treatment facility for inpatient or outpatient treatment. In addition, any treatment facility shall furnish information in its possession regarding any present or former

resident or patient upon request from the treatment facility which referred or previously referred the resident or patient to it. Under the circumstances described in this subsection, the consent of the patient or resident shall not be required in order for this information to be so furnished and the information shall be furnished pursuant to such requests despite objection by the patient or resident."

Sec. 2. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 15th day of March, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 358

HOUSE BILL 460

AN ACT TO AMEND CHAPTERS 122 AND 143B TO PROVIDE FOR THE ADDITION OF THE PHRASE "MENTAL RETARDATION, AND SUBSTANCE ABUSE (ALCOHOL AND DRUG ABUSE)" TO AREA MENTAL HEALTH PROGRAM TITLES AND TO ADD THE PHRASE "SUBSTANCE ABUSE" TO THE TITLE OF THE DIVISION OF MENTAL HEALTH AND MENTAL RETARDATION SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES, TO ALLOW AREA BOARD MEMBER COMPENSATION, TO PERMIT THE USE OF STATE FUNDS FOR CERTAIN CONTRACTS, AND TO REQUIRE BIENNIAL PROGRAM REPORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.35 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authorities" on line 7 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 11. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "program" on line 17.

Sec. 2. G.S. 122-35.36 is hereby amended by inserting the phrase ", Mental Retardation, and Substance Abuse" between the words "Mental Health" and "Authority" on line 3 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 8. Also insert the phrase ", Mental

Retardation, and Substance Abuse" between the words "Mental Health" and "Board" on line 12. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 14. Also insert the phrase ", mental retardation, and substance abuse" after the words "mental health" on line 43.

Sec. 3. G.S. 122-35.37 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 5 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authorities" on line 7.

Sec. 4. G.S. 122-35.38 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "programs" on line 10. Also insert the phrase ", Mental Retardation, and Substance Abuse" between the words "Mental Health" and "Authority" on line 2. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "activities" on line 4. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "services" on line 6. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "services" on line 8. Also insert the phrase ", mental retardation, and substance abuse" between the words "health" and "service" on line 12. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "service" on line 14.

Sec. 5. G.S. 122-35.39 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 2 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 7. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 8. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 10. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 11. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 14. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 16.

Sec. 6. G.S. 122-35.40 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 1 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "health" and "board" on line 2. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 8. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 20. Also insert the phrase ", mental retardation, and substance abuse" after the words "mental health" on line 24. Also insert the

phrase ", mental retardation, and substance abuse" between the words "mental health" and "board" on line 29.

Sec. 7. G.S. 122-35.4 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 9 of that section.

Sec. 8. The title to Article 2F of Chapter 122 is hereby amended by rewriting that title to read as follows: "Area Mental Health, Mental Retardation, and Substance Abuse (Alcohol and Drug Abuse) Programs."

Sec. 9. The title to Part 2 of Article 2F is hereby amended by rewriting that title to read as follows: "Authorization of Area Mental Health, Mental Retardation, and Substance Abuse Services."

Sec. 10. The title to Part 3 of Article 2F is hereby amended by rewriting that title to read as follows: "Responsibilities of Area Mental Health, Mental Retardation, and Substance Abuse Authorities."

Sec. 11. The title to Part 4 of Chapter 122 is hereby amended by rewriting that title to read as follows: "Appropriations for Mental Health, Mental Retardation, and Substance Abuse Service Programs."

Sec. 12. G.S. 122-35.43 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authorities" on line 3 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and

"authorities" on line 18.

Sec. 13. G.S. 122-35.44 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 3 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "program" on line 6. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on lines 15, 21, and 25.

Sec. 14. G.S. 122-35.45 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 3 of that section. Also insert the phrase ", Mental Retardation, and Substance Abuse" between the words "Mental Health" and "Authority" on line 7. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 8. Also insert the phrase ", mental retardation, and substance abuse" between the words "health" and "authority" on line 9. Also insert the phrase ", Mental Retardation, and Substance Abuse" between the words "Mental Health" and "Director" on line 11. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "director" on line 13 in two places.

Sec. 15. G.S. 122-35.46 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "employees" on line 1 of that section. Also insert the phrase ", mental retardation, and

substance abuse" between the words "mental health" and "employees" on line 2. Also insert the phrase ", mental retardation, and substance abuse" before the word "authority" on line 3. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 7.

Sec. 16. G.S. 122-35.47 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 1 of that section. Also insert the phrase ", mental retardation, and substance abuse" after the words "area mental health" on line 5. Also insert the phrase ", mental retardation, and substance abuse" between the words "health" and "service" on line 9.

Sec. 17. G.S. 122-35.48 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "health" and "authorities" on line 2 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on lines 4 and 8.

Sec. 18. G.S. 122-35.49 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 1 of that section. Also insert the phrase ", mental retardation, and substance abuse" after the phrase "mental health" on line 3. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 6.

Sec. 19. G.S. 122-35.50 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 1 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "health" and "authority" on line 2.

Sec. 20. G.S. 122-35.51 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "facility" on line 1 of that section.

Sec. 21. G.S. 122-35.52 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 4 of that section.

Sec. 22. G.S. 122-35.54 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" after the words "mental health" on line 2 of that section. Also insert the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authorities" on line 6.

Sec. 23. The section headings of G.S. 122-35.37, G.S. 122-35.38, G.S. 122-35.39, G.S. 122-35.40, G.S. 122-35.46, G.S. 122-35.50, and G.S. 122-35.55 are hereby rewritten to read, respectively, as follows:

"§ 122-35.37. Establishment of mental health, mental retardation, and substance abuse services."

"§ 122-35.38. Designation of the Department of Human Resources as the State Mental Health, Mental Retardation, and Substance

Abuse Authority."

"§ 122-35.39. Designation of the local governmental units to specify responsible area mental health, mental retardation, and substance abuse authority."

"§ 122-35.40. Structure of area mental health, mental retardation, and substance abuse board."

"§ 122-35.46. Salary plans for area mental health, mental retardation, and substance abuse employees."

"§ 122-35.50. Appeal by area mental health, mental retardation, and substance abuse authority."

"§ 122-35.55. Allocation of State matching funds to area mental health, mental retardation, and substance abuse authorities."

Sec. 24. G.S. 122-35.56 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authorities" on line 3 of that section.

Sec. 25. G.S. 122-35.57 is hereby amended by inserting the phrase ", mental retardation, and substance abuse" between the words "mental health" and "authority" on line 3 of that section.

Sec. 26. Whenever the terms, in singular or plural forms, "area mental health authority," "area mental health program," "area mental health board," "area mental health director," and "area mental health employee" appear in the General Statutes, then those terms are hereby amended to read "area mental health, mental retardation, and substance abuse

authority," "area mental health, mental retardation, and substance abuse program," "area mental health, mental retardation, and substance abuse board," "area mental health, mental retardation, and substance abuse director," and "area mental health, mental retardation, and substance abuse employee", respectively.

Sec. 27. Whenever the phrase "Division of Mental Health and Mental Retardation Services" appears in any statute or law of this State or any bill ratified after this bill during this Session of the General Assembly, unless an express contrary intent is specified in such bill, it shall be deleted and the phrase "Division of Mental Health, Mental Retardation, and Substance Abuse Services" shall be substituted therefor if appropriate to the context. Such changes will be made in, including, but not limited to, the following areas of the General Statutes: G.S. §22-58.4(c) as the same appears in the §977 Cumulative Supplement to Volume 3B, lines §7 and §8; G.S. §22-58.§6 as the same appears in the §977 Cumulative Supplement to Volume 3B, lines 2 and 3; and G.S. §22-85(a) as the same appears in the §977 Cumulative Supplement to Volume 3B, lines §3 and §4. G.S. §22-58.22(e)(2) as the same appears in the §978 Interim Supplement is hereby amended by deleting the phrase "Division of Mental Health Services" and substituting the phrase "Division of Mental Health, Mental Retardation, and Substance Abuse Services" therefor on line 4 of that subdivision. G.S. §43B-§40 is hereby amended by striking the phrase "Division of Mental Health and Mental Retardation Services" on lines §6 and §7 of that section

and substituting the phrase "Division of Mental Health, Mental Retardation, and Substance Abuse Services" therefor.

Sec. 28. Part 2 of Article 2F of Chapter 122, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby amended by adding a new section to read as follows:

"§ 122-35.40A. Compensation of area mental health, mental retardation, and substance abuse board members.--(a) Area Board members may receive as compensation for their services per diem and a subsistence allowance for each day during which they are engaged in the official business of the Board. Rates will be established by the Board and they shall not exceed those rates authorized by G.S. 138-5 for State boards.

(b) Area Board members may be reimbursed for all necessary travel expenses and registration fees in amounts fixed by the Board."

Sec. 29. G.S. 122-35.53, as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is hereby rewritten to read as follows:

"§ 122-35.53. Allocation of all funds to area mental health, mental retardation, and substance abuse authorities.--(a) All State appropriations shall be allocated to area mental health, mental retardation, and substance abuse authorities in accordance with the annual plan and budget adopted by the area mental health, mental retardation, and substance abuse authority and approved by the Department of Human Resources. However, the area mental health, mental retardation, and substance abuse

authorities are empowered to receive and allocate non-State resources for the purpose of capital improvements and equipment acquisitions as long as such expenditures are made in the support of the annual plan of work. The final share of State funds will be allocated on the basis of actual expenses and reported in a manner prescribed by the Department. Unexpended State appropriations will be remitted to the Department of Human Resources within 120 days after the close of the fiscal year.

(b) Unless otherwise specified by the Department of Human Resources, State appropriations to area mental health, mental retardation, and substance abuse authorities shall be used exclusively for the operating costs of the programs. Provided, however:

(1) The Department may specify that designated State funds may be used by the area mental health, mental retardation, and substance abuse authorities in contracting with private, nonprofit corporations operating group homes for the mentally retarded, mentally ill, or substance abuser.

(2) Such State funds may be used under the terms of the contract between the authority and the private, nonprofit corporation to make a lump sum down payment or periodic payments on a real property mortgage in the name of such private, nonprofit corporation; however, upon termination, default, or nonrenewal of the contract by either party thereto, in the discretion of the Department of Human

Resources. State funds spent as mortgage payments shall be returned to the authority from said corporation in accordance with the rules and regulations adopted by the Department.

(3) A private nonprofit corporation receiving funds under this subsection shall be subject to the provisions of G.S. 159-40 which apply to private nonprofit corporations.

(c) All real property purchased for use by the area mental health, mental retardation, and substance abuse authority shall be provided by local or federal funds and the title to such real property and the authority to acquire same shall be held by the county where the property is located.

(d) The authority to lease real property shall be held by the area mental health, mental retardation, and substance abuse authority.

(e) Equipment necessary for the operation of the area mental health, mental retardation, and substance abuse authorities shall be provided by the local, State, federal or donated funds or any combination thereof.

(f) Title to personal property and the authority to acquire or lease same, including lease-purchase arrangements, shall be held by the area mental health, mental retardation, and substance abuse authority.

(g) All community mental health, mental retardation and substance abuse funds shall be expended in accordance with rules and regulations of the Department of Human Resources and in

accordance with the minimum standards set by the Commission for Mental Health and Mental Retardation Services. Failure to comply with such rules, regulations and minimum standards may be grounds for the Department of Human Resources to cease participation in the funding of the particular mental health, mental retardation, or substance abuse program. The Department may withdraw funds from a specific program of services not being administered in accordance with an approved plan and budget after written notice and subject to an appeal in accordance with G.S. 122-35.52."

Sec. 30. G.S. 122-35.44(c) as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out the word "biannually" immediately following the word "least" and immediately preceding the word "thereafter" in the first line of such subsection and substituting the word "biennially" therefor.

Sec. 31. G.S. 122-35.55 as the same appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out the word "biannually" immediately following the word "reviewed" and immediately preceding the word "by" in line four of such section and substituting the word "biennially" therefor.

Sec. 32. G.S. 122-35.55 is hereby amended by rewriting the third sentence of that section to read as follows:

"Area mental health, mental retardation, and substance abuse funds used for matching State funds shall include, but not be limited to, fees from services (including Medicare and the local and federal share of Medicaid receipts), fees from agencies under

contract, gifts and donations, and county and municipal funds."

Sec. 33. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 13th day of April, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 215

SENATE BILL 288

AN ACT TO EXTEND THE MENTAL HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Mental Health Study Commission established and structured by 1973 General Assembly Resolution 80, 1973 Session Laws Chapter 806, 1975 Session Laws Chapter 185, and 1977 Session Laws Chapter 184 is hereby revived and authorized to continue in existence until July 1, 1981.

Sec. 2. The continued Mental Health Study Commission shall have all the powers and duties of the original Study Commission as they are necessary to continue the original study, to assist in the implementation of the original Study Commission recommendations, and to plan further activity on the subject of the study.

Sec. 3. Members of the present Mental Health Study Commission shall remain members of the continued Study Commission, but they shall serve at the pleasure of the person holding the office authorized to make the original appointment. Members of the General Assembly who are not reelected shall not be disqualified from membership on the continued Study Commission because they are no longer members of the General Assembly, but the person holding the office authorized to make the original appointment may replace them with new appointees.

Sec. 4. Members and staff of the continued Mental Health Study Commission shall receive the same compensation and expenses as under the original authorization in 1973 General Assembly Resolution 80, and the Department of Human Resources is hereby authorized to reallocate fiscal resources under Budget Code (2408|-82||) as the funding source for the Mental Health Study Commission.

Sec. 5. This act shall become effective on July 1, 1979.

In the General Assembly read three times and ratified, this the 27th day of March, 1979.

JAMES C. GREEN

James C. Green
President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.
Speaker of the House of Representatives

section. Such taxes shall be only those which are refundable under the provisions of G.S. 105-164.14(c) and refunds made pursuant to applications filed after the time herein specified shall be subject to the penalties provided for in G.S. 105-164.14(d).

Sec. 79. G.S. 105-164.14(c) is amended to insert the phrase:

"water and sewer authorities created and existing under the provisions of Chapter 162A of the General Statutes,"

immediately after the phrase "incorporated cities and towns," and immediately before the phrase "sanitary districts" in each place at which those words occur in said section.

Sec. 80. G.S. 105-164.14(c) is amended to insert after the phrase "sanitary districts", each time it appears in that subsection, the following:

", regional councils of governments created pursuant to G.S. 160A-470".

Sec. 81. G.S. 105-164.14(c) is amended to insert after the phrase "sanitary districts", each time it appears in that subsection, the following:

", area mental health boards (other than single-county boards) established pursuant to Article 2F of Chapter 122 of the General Statutes".

Sec. 82. G.S. 105-164.14(c) is amended to insert after the phrase "sanitary districts", each time it appears in that subsection, the following:

", regional planning and economic development commissions

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 455

HOUSE BILL 811

AN ACT TO PROVIDE FOR APPOINTMENT OF A CITIZEN RATHER THAN A COMMISSIONER TO A SINGLE-COUNTY AREA MENTAL HEALTH AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122-35.40(b)(1) is amended by adding the following language before the semicolon:

", except that in a single-county area mental health authority the board of commissioners may instead appoint any resident of the county."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 24th day of April, 1979.

JAMES C. GREEN

James C. Green
President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

CHAPTER 903

SENATE BILL 691

AN ACT TO ESTABLISH AN ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOL AND TO STRENGTHEN THE LAWS AGAINST PERSONS WHO OPERATE VEHICLES UNDER THE INFLUENCE OF ALCOHOL AND DRUGS.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 20-179 is rewritten to read as follows:

"(b) (1) Upon a first conviction only of any offense included in G.S. 20-138 or G.S. 20-139, and subject to the provisions of this subsection (b) the trial judge may issue a limited driving privilege when feasible and if the person convicted requests that he do so. The limited privilege, if issued, shall contain a condition that the person convicted enroll in and successfully complete, within 75 days of the date of the issuance of said limited privilege, the program of instruction at an Alcohol and Drug Education Traffic School approved by the Department of Human Resources pursuant to G.S. 20-179.2. The limited privilege shall contain a provision allowing the person convicted to drive to and from classes required for successful completion of such program of instruction. In addition, the judge may include in the limited privilege conditions

allowing the person convicted to drive a motor vehicle for proper purposes directly connected with the health, education and welfare of the person convicted and his family. The judge, in establishing the limited driving privilege, may impose restrictions as to the days, hours, types of vehicles, routes and geographic boundaries and specific purposes for which the limited driving privilege is issued. The trial judge may issue a limited driving privilege that does not contain a condition that the defendant successfully complete the program of instruction at an Alcohol and Drug Education Traffic School if:

a. there is no Alcohol or Drug Education Traffic School within a reasonable distance of the defendant's residence; or

b. the defendant because of his history of alcohol or drug abuse, is not likely to benefit from the program of instruction; or

c. there are specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

The trial judge shall enter such specific findings in the record provided that in the case of subsection b. above such findings shall include the exact reasons why the defendant is not likely to benefit from the program of instruction and that in

the case of subsection c. above such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

For the purposes of determining whether the conviction is a first conviction, no prior offense occurring more than 7 years before the date of the current offense shall be considered. In addition, convictions for violations of any provision of G.S. 20-138(a), G.S. 20-138(b), G.S. 20-139(a), or G.S. 20-139(b) shall be considered previous convictions. Convictions prior to the effective date of this act shall be considered for purposes of this subsection.

The limited driving privilege and the restrictions imposed thereon shall be specifically recorded in a written judgment of the court, shall be signed by the trial judge and shall be affixed with the seal of the court. The written judgment shall be as near as practicable in the format established by G.S. 20-179(b)(2). A notice of the conviction and a copy of the judgment must be transmitted to the Division of Motor Vehicles, along with any operator's or chauffeur's license in the possession of the person convicted.

The limited driving privilege is valid for such length of time, not to exceed six months, as

shall be set forth in the judgment of the trial judge. A limited privilege that does not contain a condition that the defendant successfully complete the program of instruction at an Alcohol or Drug Education Traffic School is valid for such length of time, not to exceed 12 months, as shall be set forth in the judgment of the trial court. Such permit shall constitute a valid license to operate a motor vehicle upon the streets and highways of this or any other state in accordance with the restrictions noted thereon. The holder of a limited driving privilege is subject to all provisions of this Chapter concerning operator's or chauffeur's licenses which are not by their nature inapplicable.

A limited driving privilege issued pursuant to this subsection does not authorize a person to drive while the license of such person is also revoked pursuant to G.S. 20-16.2 for failure to take a chemical test of the blood or breath to determine blood alcoholic content.

(2) The judgment issued by the trial judge as herein permitted shall as near as practical be in the form and contents as follows:

STATE OF NORTH CAROLINA

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE

RESTRICTED DRIVING PRIVILEGES

Senate Bill 691

This cause coming on to be heard and being heard before the Honorable _____, Judge presiding, and it appearing to the Court that the defendant, _____, has been convicted of the offense of

(describe offense under G.S. 20-138 or G.S. 20-139 or as appropriate),

and it further appearing to the Court that the defendant should be issued a limited driving privilege and is entitled to the issuance of a limited driving privilege under and by the authority of G.S. 20-179(b);

Now, therefore, it is ordered, adjudged and decreed that the defendant be allowed to operate a motor vehicle under the following conditions and under no other circumstances.

Name: _____

Address: _____

Race: _____ Sex: _____

Height: _____ Weight: _____

Color of Hair: _____ Color of Eyes: _____

Birth Date: _____

Driver's License Number: _____

CONDITIONS OF RESTRICTION

1. The defendant must successfully complete the approved program of instruction at an Alcohol and Drug Education Traffic School within 75 days from the date when this limited privilege was issued.

2. Geographical restrictions: _____

_____

3. Hours of restriction: _____

_____

4. Type(s) of vehicles that may be operated: _____

_____

_____

5. Other Restrictions: _____

_____

_____

_____

This limited license shall be effective from (month) (day), (year) to (month) (day), (year) subject to further orders as the court in its discretion may deem necessary and proper.

Issued on this _____ day of _____ 19___

_____

(Judge Presiding)

Accepted on this _____ day of _____, 19____

_____

(Signature of Licensee)

(3) If a person is convicted in another state or county or in a federal court of an offense that is equivalent to one of the provisions of G.S. 20-138(a), G.S. 20-138(b), G.S. 20-139(a) or G.S. 20-139(b), and if the person's North Carolina driver's license is revoked as a result of that conviction, the person so convicted may apply to the presiding or resident judge of the superior court or a district court judge of the district in

which he resides for a limited driving privilege. Upon such application the judge may issue a limited driving privilege in the same manner as if he were the trial judge.

(4) A district court judge may modify a limited driving privilege if:

a. the holder of the limited privilege petitions the court for a modification of the privilege; and

b. the privilege was issued by a district court judge; and

c. the privilege was issued in the county in which the district judge is conducting court.

A superior court judge may modify a limited driving privilege if:

a. the holder of the limited privilege petitions the court for a modification of the privilege; and

b. the privilege was issued by a superior court judge; and

c. the privilege was issued in the county in which the superior court judge is conducting court.

(5) Any violation of the conditions or restrictions as set forth in the judgment of the trial court allowing such privileges, other than the failure to successfully complete the prescribed program of instruction at an Alcohol and Drug Education

Traffic School, shall constitute the offense of driving while license revoked as set forth in G.S. 20-28(a). When a person is charged with operating a motor vehicle in violation of the restrictions, the limited driving privilege shall be suspended pending the final disposition of the charge.

Failure to successfully complete an approved program of instruction at an Alcohol and Drug Education Traffic School shall constitute grounds to revoke the limited privilege for the remainder of the time for which such limited privilege was issued. Failure to successfully complete an approved program of instruction at an Alcohol and Drug Education Traffic School shall not constitute the offense of driving while license revoked. For purposes of this subsection, the phrase 'failure to successfully complete the prescribed program of instruction at an Alcohol and Drug Education Traffic School' includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 75 days of the issuance of the limited privilege, wilful failure to pay the required fee for the course, or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to successfully complete

the program of instruction to the court which issued the limited driving privilege. The court shall revoke the limited privilege. The person possessing the limited privilege may obtain a hearing prior to revocation.

(6) Notwithstanding any other provisions of this section, no person who has wilfully refused to submit to a chemical test upon request of the officer as provided by G.S. 20-16.2 may be granted a limited driving privilege or license while the driving privilege of such person is revoked pursuant to the provisions of G.S. 20-16.2(c) for the wilful refusal of such person to submit to such chemical test.

(7) This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina."

Sec. 2. Subsection (a) of G.S. 20-179, as the same appears in the 1978 Replacement Volume 1C of the General Statutes of North Carolina, is amended by deleting the words and figures "G.S. 20-138" each time the same appear therein and inserting in lieu thereof the words and figures: "G.S. 20-138(a), G.S. 20-138(b)".

Sec. 3. G.S. Chapter 20 is amended by adding a new section numbered G.S. 20-179.2 to read as follows:

"§ 20-179.2. Alcohol and Drug Education Traffic Schools

curriculum approved by Commission for Mental Health and Mental Retardation Services; responsibilities of the Department of Human Resources; fees.--(a) The Commission for Mental Health and Mental Retardation Services shall establish standards and guidelines for the curriculum and operation of local Alcohol and Drug Education Traffic School programs. The Department shall oversee the development of a statewide system of schools and shall insure that schools are available in all localities of the State as soon as is practicable.

(1) A fee of one hundred dollars ($100.00) shall be paid by all persons enrolling in an Alcohol and Drug Education Traffic School program established pursuant to this section. That fee shall be paid to the clerk of court in the county in which the person was convicted. The amounts received by the clerk from the fees shall be remitted in monthly payments to the Area Mental Health Authority located in the catchment area where the court is located. Area Mental Health Authorities will remit five percent (5%) of the above fees from the clerks of court to the Department of Human Resources on a monthly basis. Fees received by the Department of Human Resources may only be used in supporting and administering Alcohol and Drug Education Traffic Schools. Any excess funds will revert to the General Fund.

(2) The Department of Human Resources shall have the

authority to approve programs to be implemented by area mental health authorities. Area mental health authorities may subcontract for the delivery of Alcohol and Drug Education Traffic School program services. The department shall have the authority to approve budgets and contracts with public and private governmental and nongovernmental bodies for the operation of such schools.

(3) All fees retained by the Area Mental Health Authorities from the clerks of court shall be placed in a nonreverting fund. Monies in that fund shall be disbursed for the operation, evaluation and administration of Alcohol and Drug Education Traffic School programs. Any excess funds shall be used to fund other Drug and Alcohol programs.

(4) All fees collected by the Area Mental Health Authorities from the clerks of court may not be used in any manner to match other State funds or to be included in any computation for State formula-funded allocations.

(b) Wilful failure to pay the fee is one ground for a finding that a person given a limited privilege has not successfully completed the course. Wilful failure to pay the fee does not include cases in which the court determines the person is unable to pay."

Sec. 4. Subsection (d) of G.S. 20-19, as the same appears in 1978 Replacement Volume 1C of the General Statutes, is

hereby amended: (1) by inserting after the word "drugs" on line 18 thereof a period; (2) by striking the remainder of said subsection (d); and (3) by inserting after said period following the word "drugs" on line 18 thereof the following language: "When a new license is issued pursuant to the provisions of this subsection, it may be issued upon such terms and conditions as the division may see fit to impose, including when feasible the condition that said former licensee successfully complete the program of instruction at an Alcohol and Drug Education Traffic School. The terms and conditions imposed by the division may be imposed for the balance of a four-year revocation, which period shall be computed from the date of the original revocation."

Sec. 5. Subdivision (e) of G.S. 20-19, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is amended by striking the period after the word "impose" on line 19 of said subsection (e) and inserting in lieu of said period a comma, and inserting after said comma the following language:

"including when feasible the condition that the former licensee successfully complete the program of instruction at an Alcohol and Drug Education Traffic School."

Sec. 6. G.S. 20-19, as the same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by inserting after subsection (c) a new subsection therein as subsection (c1) to read as follows:

"(c1) When a license is revoked under subdivision (2) of G.S. 20-17, and the period of revocation is not determined by the

provisions of G.S. 20-|9(d) and (e), the period of revocation shall be one year unless the trial judge issues a limited driving privilege to the person convicted that contains a condition that the defendant successfully complete the course of instruction at an Alcohol and Drug Education Traffic School. If the trial judge issues a limited privilege and the person convicted complies with the conditions and restrictions included in the limited privilege, the division must restore the person's license after six months if the person's license or limited driving privilege is not otherwise revoked or suspended, and if the division has received a certificate from the Alcohol and Drug Education Traffic School certifying that the person convicted has successfully completed the program of instruction at the Alcohol and Drug Education Traffic School. If the person fails to comply with the conditions and restrictions contained in the limited privilege, the period of revocation is |2 months, beginning at the time the limited privilege is revoked."

Sec. 7. Subsection (d) of G.S. 20-|40 as the same appears in the |978 Replacement Volume |C of the General Statutes, is hereby amended by deleting the words "reckless driving" on line | thereof and inserting in lieu thereof the words:

"violating subsection (a) or subsection (b) of this section".

Sec. 8. G.S. 20-|40, as the same appears in the |978 Replacement Volume |C of the General Statutes, is hereby amended by adding at the end thereof a new subsection (e) as follows:

"(e) Any person convicted of violating subsection (c) of this

section shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) and a term of imprisonment not to exceed six months, which term of imprisonment may be suspended by the trial court upon such terms and conditions as it may see fit provided that such terms and conditions shall include the term and condition that the person so convicted shall successfully complete the program of instruction at an Alcohol and Drug Education Traffic School within 75 days of the date of said conviction, unless the judges make a written finding in the record that:

(1) there is no Alcohol or Drug Education Traffic School within a reasonable distance of the defendant's residence; or

(2) the defendant, because of his history of alcohol or drug abuse, is not likely to benefit from the program of instruction; or

(3) there are specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

The trial judge shall enter such specific findings in the record provided that in the case of subdivision (2) above such findings shall include the exact reasons why the defendant is not likely to benefit from the program of instruction and that in the case of subdivision (3) above such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction."

Sec. 9. G.S. 20-26(a), as same appears in the 1978

Replacement Volume 1C of the General Statutes, is hereby amended by inserting the word and punctuation "test," immediately before the word "proceeding" appearing in line 2 thereof.

Sec. 10. G.S. 20-26(b), as same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by striking the period at the end thereof and adding the following proviso: "Provided a certified copy of such record may be transmitted via the police information network and that such copy shall be competent for the purpose of establishing the status of a person's operator's license and driving privilege without further authentication. The Attorney General and the Commissioner of Motor Vehicles are authorized to promulgate such rules and regulations as may be necessary to implement the provision of this subsection."

Sec. 11. G.S. 20-27, as same appears in the 1978 Replacement Volume 1C of the General Statutes, is hereby amended by designating the existing section as subsection "(a)" and by adding a new subsection to be designated subsection (b) to read as follows:

"(b) All records of the division pertaining to chemical tests as provided in G.S. 20-16.2 shall be available to the courts as provided in G.S. 20-26(b)."

Sec. 12. G.S. 20-23.2, as the same is found in Volume 1C of the General Statutes, 1978 Replacement, is hereby amended by deleting the last sentence.

Sec. 13. This program and the provisions of this act shall be implemented to the extent appropriations are provided by

the General Assembly but nothing herein contained shall be construed to obligate the General Assembly to appropriate additional funds.

Sec. 14. There shall be an evaluation of the effectiveness of the course of instruction at alcohol and drug education traffic schools, and the result of that evaluation shall be made available to the 1983 Session of the General Assembly.

Sec. 15. This act shall become effective on January 1, 1980.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 40

HOUSE JOINT RESOLUTION 1379

A JOINT RESOLUTION DIRECTING THE MENTAL HEALTH STUDY COMMISSION TO REVIEW AND STUDY THE SERVICE NEEDS OF THE MENTALLY RETARDED CITIZENS AND TO MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL ASSEMBLY.

Whereas, there are an estimated 40,000 moderately, severely and profoundly retarded citizens in the State of North Carolina; and

Whereas, approximately 7,000 are currently served in institutional and community programs; and

Whereas, substantially handicapped citizens need specialized services to meet a variety of daily living and training needs; and

Whereas, the service needs of the substantially handicapped are lifelong developmental needs; and

Whereas, the State and county governments through the Area Mental Health Boards have undertaken over the last several years the development of a variety of community programs and have worked together toward the goal of deinstitutionalization;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Mental Health Study Commission conduct a review and study of the following:

(a) State policies regarding the provision of services to substantially mentally retarded citizens;

(b) overlaps and gaps in services as they relate to the service needs of substantially mentally retarded citizens;

(c) the roles and responsibilities of different State agencies in meeting the needs of the substantially mentally retarded citizens;

(d) the roles and responsibilities of the family, the State and local government in providing the services for the substantially mentally retarded citizens.

Sec. 2. That the Mental Health Study Commission prepare a written report and recommendations regarding the issues outlined in Section 1 and present these to the Governor and the General Assembly not later then January 1, 1981.

Sec. 3. That the Mental Health Study Commission undertake such study and prepare its report within its assigned fiscal resources and with the cooperation of all relevant State agencies and relevant interest groups.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of May, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 20

HOUSE JOINT RESOLUTION 893

A JOINT RESOLUTION ON ALCOHOL AND DRUG ABUSE AND DECRIMINALIZATION OF PUBLIC DRUNKENNESS.

Whereas, the 1978 Session of the 1977 General Assembly enacted a law to decriminalize public drunkenness; and

Whereas, this law shifts the responsibility for short-term care and detoxification from the county jails or State mental hospitals to the communities; and

Whereas, short-term care and detoxification should be available in local communities rather than State psychiatric hospitals; and

Whereas, this law establishes the need for longer term residential programs for the chronic population; and

Whereas, the approach mandated by the law decriminalizing public drunkenness will serve to use community resources more effectively; and

Whereas, a study should be made concerning the extent of alcohol and drug abuse; and

Whereas, an evaluation is needed concerning the effectiveness of the publicly funded responses to this abuse; and

Whereas, a report relating alcohol and drug expenditures to services is needed;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the Mental Health Study Commission of North Carolina make alcohol and drug abuse and the implementation of decriminalization of public drunkenness a major priority and be it recommended that a subcommittee of the Mental Health Study Commission be appointed to review these issues listed above.

Sec. 2. It is further resolved that this subcommittee on alcohol and drug abuse examine the policies and the service delivery system of private and public programs, including but not limited to those administered by the Commission on Mental Health and Mental Retardation of the Department of Human Resources and from such studies recommend ways and means to enhance programs of education, prevention, intervention and rehabilitation.

Sec. 3. It is further recommended that due to the increasing number and complexity of issues before the Mental Health Study Commission that the President of the Senate, the Speaker of the House and the Governor each have one additional appointment to the Mental Health Study Commission including a member of the Senate, a member of the House of Representatives and one to represent the public at-large.

Sec. 4. That the final report of the full Commission's findings and recommendations be submitted to the General Assembly and the Governor not later than January 1, 1981.

House Joint Resolution 893

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 27th day of April, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 46

HOUSE JOINT RESOLUTION 1274

A JOINT RESOLUTION DIRECTING THE CRIMINAL CODE COMMISSION TO STUDY THE INSANITY DEFENSE.

Whereas, the insanity defense has aroused increasing interest in the past two decades; and

Whereas, many respected legal theorists and practicing attorneys are asking whether the insanity defense should be substantially changed or completely abolished; and

Whereas, under the present law a person could be found not guilty by reason of insanity, but not be detained in a mental institution under current commitment statutes; and

Whereas, public opinion is often stirred when a person found not guilty by reason of insanity is released from custody soon after his trial; and

Whereas, no comprehensive study focusing on the insanity defense in North Carolina has been done in the past two decades; Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Criminal Code Commission is directed to study the insanity defense to determine if amendment or abolition of that defense is needed.

Sec. 2. The Criminal Code Commission shall report its findings to the General Assembly, including any recommended

legislation, no later than the first day of the 1981 Session of the General Assembly.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives